

Application No.: 10/707,675

Docket No.: 60680-1814

**REMARKS**

Applicants have carefully reviewed the Office Action mailed March 22, 2005. Claims 1 – 10, and 12 – 19 have been withdrawn and are pending an appeal by petition under 37 C.F.R. §1.144 filed concurrently herewith. Claim 11 has been rejected under 35 U.S.C. 102(b) as being anticipated by Juchnowski (U.S. Patent No. 4,671,542).

Accordingly, claims 1 – 19 remain pending in this application. Applicants respectfully request reconsideration of the present application in view of the following remarks. No new matter has been added.

**I. Rejection of claim 11 under 35 U.S.C. § 102 (b)**

Claim 11 has been rejected under 35 U.S.C. 102 (b) as being anticipated by Juchnowski (U.S. Patent No. 4,671,542). The rejection is respectfully traversed in light of the amendment to claim 11.

The Examiner asserts that Applicants' election *with traverse* of the invention elected was not found persuasive because "claim 1 recited 'at least one groove includes an opening and a base each having a predetermined width, said pre-determined width of said opening being generally less than said predetermined width of said base'; however, the elected species, Group 1, Figure 1, fails to meet this limitation." The specification, figures, and claims, however, are directed to the same inventive concept. Specifically, Figure 1, BRIEF SUMMARY OF THE INVENTION, DETAILED DESCRIPTION OF THE INVENTION, and ABSTRACT disclose and teach a groove that includes an opening and base each having a predetermined width and the predetermined width of the opening is generally less than the predetermined width of the base. Paragraph [0024] specifically states "any angle A *generally* less than about 90 degrees is contemplated by the present invention to result in predetermined width W1 of opening 46 being generally less than predetermined width W2 of base 48." Grooves 30 are shown in Figure 1 exactly as presented in independent claim 11. The angle of the grooves in Figure 1 is shown generally *slightly* less than ninety (90) degrees as described and contemplated in the specification.

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**A. THE BRIEF SUMMARY OF THE INVENTION STATES THAT THE INVENTION IS DIRECTED TO A HOSE ASSBMLY HAVING A GROOVE WITH A PREDETERMINED WIDTH OF THE OPENING THAT IS GENERALLY LESS THAN THE PREDETERMINED WIDTH OF THE BASE**

The Examiner asserts that Applicants' election *with traverse* of the invention elected was not found persuasive because "claim 1 recited 'at least one groove includes an opening and a base each having a predetermined width, said pre-determined width of said opening being generally less than said predetermined width of said base'; however, the elected species, Group 1, Figure 1, fails to meet this limitation. Therefore, claims 1 – 11 are not generic to all species."

The Examiner is mistaken on at least this point. The BRIEF SUMMARY OF THE INVENTION states: "[t]he present invention is directed to a hose assembly comprising a first member having an inner surface and a second member having an outer surface. The second member is partially received within the first member. One of the surfaces of the members includes at least one groove for receiving a portion of the other member. The groove includes an opening and base each having a predetermined width and the predetermined width of the opening is generally less than the predetermined width of the base." *Emphasis added.* Figure 1 in the specification includes the *groove 30*.

**B. THE BRIEF DESCRIPTION OF THE DRAWINGS SUPPORTS THAT ANY ANGLE LESS THAN 90 DEGRESS IS CONTEMPLATED BY THE PRESENT INVENTION**

The BRIEF DESCRIPTION OF THE DRAWINGS includes in paragraph [0007]: Figure 1 is a partial cross-sectional view of a hose assembly **of the present invention**. Further, paragraph [0024] states "**any angle A generally less than about 90 degrees is contemplated by the present invention** to result in predetermined width W1 of opening 46 being generally less than predetermined width W2 of base 48. Further, angle A of each side 50, 52 need not be the same, only less than about 90 degrees." Therefore, the Examiner is wrong in assuming that the grooves 30 in Figure 1 do not meet the inventive aspects of the claimed invention. The grooves 30 in Figure 1 are shown to be generally *slightly* less than ninety (90) degrees.

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**C. THE ABSTRACT STATES THAT THE ASSEMBLY HAS A GROOVE WITH A PREDETERMINED WIDTH OF THE OPENING THAT IS GENERALLY LESS THAN THE PREDETERMINED WIDTH OF THE BASE**

The ABSTRACT of the application also defines the grooves 30. "One of the two members has greater rigidity than the other member and at least one groove... The groove includes an opening and a base each having a predetermined width. The predetermined width of the opening is generally less than the predetermined width of the base." *Emphasis added.*

**D. FIGURE 1 SHOWS A GROOVE SLIGHTLY LESS THAN 90 DEGREES**

Finally, grooves 30 are shown in Figure 1 exactly as claimed in the independent claim. The angle of the grooves in Figure 1 is shown generally *slightly* less than ninety (90) degrees as described and contemplated in the specification.

**E. THE AMENDMENT TO CLAIM 11 IS SUPPORTED BY THE SPECIFICATION**

Accordingly, Applicants believe that the amendment to claim 11 and additional new claims are supported by the specification. Applicants respectfully submit that in view of the amendment to claim 11, it is now in condition for allowance. This amendment was made for clarification and not for the purpose of altering claim scope. Withdrawal of this rejection is respectfully requested.

**F. THE AMENDMENT TO CLAIM 11 OVERCOMES THE 35 U.S.C. 102(b) REJECTION – JUCHNOWSKI**

Claim 11 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,671,542 to Juchnowski. The rejection is respectfully traversed.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."<sup>1</sup> "The identical invention must be shown in as complete detail as is contained in the ... claim."<sup>2</sup>

<sup>1</sup> *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

<sup>2</sup> *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

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Applicants have amended independent claim 11 to further articulate the claimed invention. Juchnowski teaches an insert 12 containing serrations 14 in an outer circumferential surface 16. *See col. 2, lines 7 – 9.* Juchnowski does not describe or contemplate at least one groove including “an opening and a base each having a predetermined width, said predetermined width of said opening being generally less than said predetermined width of said base” as amended in independent claim 11.

In view of the amendment to claim 11 and the advantages the claimed invention provides over the teaching of Juchnowski, it is respectfully submitted that claim 11 is now in condition for allowance. Withdrawal of this rejection is respectfully requested.

## II. Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 60680-1814 from which the undersigned is authorized to draw.

Dated: June 21, 2005

Respectfully submitted,

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